

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:16 cv 409**

**JUDY E. JONES**, *as Executor of the  
Estate of Talmage Lee Jones Jr.*,

**Plaintiff,**

**v.**

**JASON ANTHONY HIGGINS, G & R  
TRUCKING COMPANY, INC., and  
CMH MANUFACTURING, INC.,**

**Defendants.**

**CMH MANUFACTURING, INC.,**

**Third-party Plaintiff,**

**v.**

**HOYLE'S TIRE AND AXLE, LLC d/b/a/  
HOYLE TIRE & AXLE**

**Third-party Defendant.**

**ORDER**

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This matter is before the Court sua sponte. After dealing with ambiguity from the parties regarding a hearing date, the Court ordered the parties to confer and propose a date on which the outstanding motions could be heard [# 86]. On February 20, 2018, the parties proposed the hearing be set on Friday, February 22, 2018 under

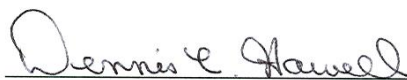
two conditions. The Court, entertaining the conditions, entered a text order setting the hearing for February, 22, 2018.

On February 22, 2018, a paralegal of counsel for CMH Manufacturing, Inc. averred to the Court that CMH and Plaintiff had settled. Subsequently, a paralegal of counsel for Plaintiff averred the same. The Court only learned of this information because it was following up on a condition set by CMH, that CMH be heard at the February 22, 2018 hearing through counsel admitted *pro hac vice*. CMH stated that it will not need to send an attorney to the hearing. Neither counsel for Plaintiff nor CMH has filed a withdrawal of motion or a notice of settlement.

The Court has spent hours going over the parties motions. The Court sees no problem with that because it is the Court's role to thoroughly evaluate every case and motion that comes before it. The Court finds problematic, however, the parties actions and inactions that have led to a possibly moot hearing tomorrow. It is up to counsel to inform the Court, not for the Court to track down the parties.

Therefore, the Court **DIRECTS all counsel and the parties** to appear at **11:15 a.m., on February 23, 2018**. If a party fails to appear, the Court will consider further action.

Signed: February 22, 2018



Dennis L. Howell  
United States Magistrate Judge

